

NUSBAUM, STEIN, GOLDSTEIN  
BRONSTEIN & KRON, P.A.  
66 Sunset Strip, Suite 205  
Succasunna, New Jersey 07876  
(973) 584-1400  
Attorneys for Plaintiff  
Robert D. Kobin, Esq., 015881986

ERVIN R. CAYAX and  
LUZ A. VILLADA-ECHEVERRI,  
his spouse,  
Plaintiff,

v.

KIA MOTORS AMERICA, INC.  
and ABC CORP. 1-10,  
Defendants.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: MORRIS COUNTY

Docket No. MRS L-  
Civil Action

COMPLAINT AND JURY DEMAND

Plaintiffs, Ervin R. Cayax and Luz A. Villada-Echeverri his spouse, residing at 84 Penn Avenue, Dover, Morris County, New Jersey 07801 by way of complaint against the Defendants say:

THE PARTIES/BACKGROUND

1. Defendant KIA Motors America, Inc. is a foreign profit corporation of the State of California authorized to do business in the State of New Jersey with a principal address of One Tower Center Blvd., Suite 1100, East Brunswick, New Jersey 08816 and an agent for service of process at 820 Bear Tavern Road, West Trenton, Mercer County, New Jersey 08628. (Hereinafter Defendant KIA Motors America, Inc., shall be referred to as Defendant "KIA") At all times relevant hereto Defendant Kia was in the business of the manufacture, design,

distribution, sale, and/or was responsible for placing in the line of commerce, Kia automobiles including the airbags that were installed in the vehicle operated by Plaintiff Ervin R. Cayax.

2. At all times relevant hereto, Defendant ABC Corp. 1-10 are fictitious names of corporations, businesses and/or entities in the business of the manufacture, design, distribution, sale, and/or was responsible for placing in the line of commerce, KIA motor vehicles and airbags including the motor vehicle operated by the Plaintiff Ervin R. Cayax. At such time as their identities become known, this Complaint will be amended to name the known entity(ies).

#### FIRST COUNT

1. On or about October 7, 2016 Plaintiff Ervin R. Cayax was the driver of a silver 2012 Kia Soul, VIN #KNDJT2A58C7388821 vehicle proceeding in a southerly direction on South Morris Street at its intersection with Quaker Church Road in the Township of Randolph, Morris County, New Jersey.

2. At the same time and place a Lina Buitrago was the driver of a motor vehicle owned by an Olga L. Muneton proceeding in a northerly direction on South Morris Street when her vehicle crossed over the double line and into the Plaintiff's lane of travel.

3. At the time of the head-on collision, and according to the information provided on the Randolph Township police report, the Plaintiff's legs were pinned between the dashboard and front seat and that it did not appear that the driver's side airbag had deployed as a result of the impact and that the steering wheel was dislodged from the steering column.

4. As a further result of the aforementioned incident, the Plaintiff sustained severe and permanent personal injuries including a broken femur, tibia and hip, injuries to the head and multiple surgeries. The Plaintiff continues to suffer from said injuries and requires extensive medical treatment.

5. At all times relevant hereto the 2012 Kia Soul, including its airbags, was manufactured, designed, and/or distributed by Defendant KIA and/or ABC Corp. 1-10 in a defective manner in that the Kia Soul and/or its airbags were not reasonably fit, suitable and/or safe for their intended purpose and therefore, Defendant Kia and/or ABC Corp. 1-10 are strictly liable to the plaintiff in accordance with the provisions of N.J.S.A. 2A:58C-1- et. seq.

6. As a direct result of the Kia Soul and/or its airbags not being reasonably fit, suitable and/or safe for their intended purpose, the Plaintiff Ervin R. Cayax was subjected to an unreasonable risk of harm thereby causing the Plaintiff Ervin R. Cayax to sustain severe and permanent personal injuries.

7. At all times relevant hereto as a result of a deviation from the design specifications, formulae, or performance standards of the manufacturer or from otherwise identical units manufactured to the same manufacturing specifications or formulae of the KIA and/or its airbags in question, Plaintiff Ervin R. Cayax was caused to sustain serious and permanent personal injuries.

8. At all times relevant hereto the KIA and/or the airbags failed to contain adequate warnings or instruction regarding the potential dangers and hazards of the use of the KIA and/or its airbags, and as a direct result of the inadequate warnings Plaintiff Ervin R. Cayax was caused to sustain serious and permanent personal injuries.

9. At all times relevant hereto the KIA and/or the airbags were designed in a defective manner, and as a direct result of the defective design Plaintiff Ervin R. Cayax was caused to sustain serious and permanent personal injuries.

WHEREFORE, the Plaintiff Ervin R. Cayax demands judgment against the Defendants KIA and/or ABC Corp. 1-10 jointly, severally or in the alternative for jointly and severally or in

the alternative, for compensatory damages, interest, attorneys fees, medical expenses, costs of suit, and such other relief as the Court deems reasonable and just.

SECOND COUNT

1. Plaintiff Luz A. Villada-Echeverri repeats and reiterates the allegations of the Parties and the First Count as though set-forth verbatim herein.
2. Plaintiff Luz A. Villada-Echeverri is the spouse of the Plaintiff Ervin R. Cayax.
3. As set-forth in the First Count, as a result of the injuries sustained by the Plaintiff Ervin R. Cayax, Plaintiff Luz A. Villada-Echeverri has suffered and will continue to suffer loss of consortium, companionship, and services of her spouse, Plaintiff Ervin R. Cayax during the period of his disability.

WHEREFORE, Plaintiff Luz A. Villada-Echeverri demands judgment against the Defendants KIA and/or ABC Corp. 1-10, jointly, severally or in the alternative for compensatory damages including but not limited to medical expenses and lost wages, interest and costs of suit.

CERTIFICATION

1. The within matter in controversy is not the subject of any other action pending in any court or any pending arbitration proceeding.
2. No other action or arbitration proceeding is contemplated by plaintiff herein.
3. No other party should presently be joined in this action.

NUSBAUM, STEIN, GOLDSTEIN,  
& BRONSTEIN & KRON, P.A.

By: \_\_\_\_\_  
Robert D. Kobin

Date: October 8, 2018

DESIGNATION OF TRIAL COUNSEL

In accordance with R. 4:25, Robert D. Kobin, Esq. is hereby designated as trial counsel for the Plaintiff in the above matter.

**DEMAND FOR INTERROGATORIES**

Plaintiff hereby demands that Defendants provide answers to Uniform Interrogatories Form C, Form C(2) and Form C(4) within the timeframe provided by the Rules of Court.

**DEMAND FOR DOCUMENTS**

Plaintiff demands that Defendants provide Plaintiff with a true and accurate copy of Defendants' Insurance Agreement including Excess Coverage Policies under which any person or firm carrying on an insurance business may be entered in this action or to indemnify or reimburse for payments made to satisfy the judgment, within the time frame prescribed by the Rules of Court.

**JURY DEMAND**

Plaintiff hereby demands trial by jury.

NUSBAUM, STEIN, GOLDSTEIN,  
& BRONSTEIN & KRON, P.A.

By: \_\_\_\_\_

Robert D. Kobin

Date: October 8, 2018

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(973) 584-1400  
Attorneys for Plaintiff

ERVIN R. CAYAS and LUZ A. VILLADA-  
ECHEVERRI, his spouse,

Plaintiffs,

vs.

KIA MOTORS AMERICA, INC. and ABC  
CORP. 1-10,

Defendants.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION – MORRIS COUNTY

Docket No. MRS-L-1973-18

Civil Action

**SUMMONS**

The State of New Jersey, to the Above Named Defendant: **KIA MOTORS AMERICA, INC.**

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The Complaint attached to this Summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (The address of each deputy clerk of the Superior Court is provided.) A \$175.00 filing fee payable to the Clerk of the Superior Court and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services office in the county where you live. If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. The phone numbers for the county in which this action is pending are: Legal Services Office (973) 285-6911, and Lawyer Referral Services Office (973) 267-5882.

DATED: November 7, 2018

/s/ Michelle M. Smith  
MICHELLE M. SMITH, Clerk

Name and Address of Defendant: Corporation Trust Company  
820 Bear Tavern Road  
West Trenton, NJ 08628

MRS L 001973-18 10/09/2018 3:56:13 AM Pg 1 of 1 Trans ID: LCV20181751650

MORRIS COUNTY  
SUPERIOR COURT  
COURT STREET  
MORRISTOWN NJ 07960

TRACK ASSIGNMENT NOTICE

COURT TELEPHONE NO. (973) 656-4100  
COURT HOURS 8:30 AM - 4:30 PM

DATE: OCTOBER 08, 2018  
RE: CAYAX ERVIN VS KIA MOTORS AMERICA, INC.  
DOCKET: MRS L -001973 18

THE ABOVE CASE HAS BEEN ASSIGNED TO: TRACK 3.

DISCOVERY IS 450 DAYS AND RUNS FROM THE FIRST ANSWER OR 90 DAYS  
FROM SERVICE ON THE FIRST DEFENDANT, WHICHEVER COMES FIRST.

THE PRETRIAL JUDGE ASSIGNED IS: HON DAVID H. IRONSON

IF YOU HAVE ANY QUESTIONS, CONTACT TEAM 001  
AT: (973) 656-4106.

IF YOU BELIEVE THAT THE TRACK IS INAPPROPRIATE YOU MUST FILE A  
CERTIFICATION OF GOOD CAUSE WITHIN 30 DAYS OF THE FILING OF YOUR PLEADING.  
PLAINTIFF MUST SERVE COPIES OF THIS FORM ON ALL OTHER PARTIES IN ACCORDANCE  
WITH R.4:5A-2.

ATTENTION:

ATT: ROBERT D. KOBIN  
NUSBAUM STEIN GOLDSTEIN ET AL  
TOWN CENTRE BUILDING  
66 SUNSET STRIP - SUITE 205  
SUCCASUNNA NJ 07876

ECOURTS

## Civil Case Information Statement

Case Details: MORRIS | Civil Part Docket# L-001973-18

Case Caption: CAYAX ERVIN VS KIA MOTORS AMERICA, INC.

Case Initiation Date: 10/08/2018

Attorney Name: ROBERT DOUGLAS KOBIN

Firm Name: NUSBAUM STEIN GOLDSTEIN ET AL

Address: TOWN CENTRE BUILDING 66 SUNSET STRIP - SUITE 205

SUCCASUNNA NJ 07876

Phone:

Name of Party: PLAINTIFF : Cayax, Ervin, R

Name of Defendant's Primary Insurance Company  
(if known): None

Case Type: PRODUCT LIABILITY

Document Type: Complaint with Jury Demand

Jury Demand: YES - 6 JURORS

Hurricane Sandy related? NO

Is this a professional malpractice case? NO

Related cases pending: NO

If yes, list docket numbers:

Do you anticipate adding any parties (arising out of same transaction or occurrence)? NO

**THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE**

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? NO

If yes, is that relationship:

Does the statute governing this case provide for payment of fees by the losing party? NO

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b)

10/08/2018

Dated

/s/ ROBERT DOUGLAS KOBIN

Signed